

The following questionnaire was available on the Montana Child Support Enforcement Division internet site from approximately March, 2003 through March, 2004. Starting on page two, the following copy of the questionnaire reflects the final results of the **365** completed surveys received.

CSED GUIDELINES QUESTIONNAIRE

The Montana Child Support Enforcement Division (CSED) is currently reviewing the Uniform Child Support Guidelines. CSED is required by federal regulations to review the guidelines at least every four years. A central part of this review is to re-examine the public policy issues which form the foundation of the guidelines. With this objective in mind, the CSED guideline review committee is asking for your help. Please take the time to read and consider the following discussion and then answer the policy questions. Your assistance will help the review committee assess whether current guideline policy needs to be changed and, if so, to determine what the changes should be. Instructions for returning your completed questionnaire are found at the end of this document.

To assist you in understanding guideline policy implications, consider a family of mother, father, and children that live together in the same household; we call this an *intact family*. In an intact family, a child's standard of living is a result of: 1) the ability of the parents to earn income; 2) the willingness of the parents to earn income; 3) the amount of actual available parental income regardless of what the parents could be earning; and 4) the willingness of the parents to spend their available income to achieve a set living standard for the child. As parental income increases or decreases, so will the child's standard of living. As parental spending priorities change, so will the child's standard of living.

While a family is intact, courts and state agencies will not intrude upon parental spending priorities and standard of living choices until or unless the parents fail to meet the child's basic subsistence level needs. Even when it is found necessary to intrude, the court or state agency will become involved just enough to make sure the parents provide a basic subsistence level standard of living to the child. The court or state agency will not go so far as to overrule parental choice and require a particular standard of living for the child above the level of basic needs, even though the parents can afford to pay more.

This "hands off" policy changes when the family is no longer living together because of divorce or legal separation. As a practical matter, the strong emotions surrounding the break up of a family tend to make it difficult for the parents to make sound decisions. Most of these no longer intact families will need some help from the courts and state agencies in making decisions with regard to the support of their children. Therefore, as part of divorce and separation proceedings, courts and state agencies regularly place financial burdens on parents that are not placed upon parents in intact families. In many cases, the parents will be required to provide more, sometimes much more, than what the parents provided during the time the family was intact. It is the child support guidelines, which are an expression of public policy, that provide

the framework for the courts and state agencies to determine the level of support to be paid.

Child support guidelines are intended to apply to all cases in the state. However, no two family situations are quite the same. Intact families with similar income levels will not spend the same amounts on children. Even within a particular intact family, a child's standard of living is flexible and may vary widely. Accordingly, for a guideline to fit all situations, the guideline must find the middle ground. Finding this middle ground is also a matter of public policy.

POLICY QUESTIONS

[Questions #1 through #6 are intended to determine when and under what conditions, if any, a parent should be required to earn more income for child support after the break-up of the family than what the parent earned while the family was intact.]

1. While the family was intact, a parent, who is a qualified civil engineer, worked for a public agency at less pay than the parent could have earned working for a private engineering firm. After the family breaks up, should the child support calculation be based on the higher income the parent *could be* earning? Or, should it be based on the lower income the parent is *actually* earning? A. Higher income **62** B. Lower income **293**

2. While the family was intact, a parent earned six dollars an hour but could have earned ten dollars an hour. The parent liked the six dollars an hour job better. After the divorce, should the parent's child support obligation be calculated based on the six dollars an hour job or on the ten dollars an hour job? A. \$6 an hour **283** B. \$10 an hour **71**

3. While the family was intact, the parents agreed that one parent would not work for wages but instead would stay home as an unpaid homemaker. This stay-at-home parent had training and the ability to work as a nurse's assistant. The other parent, who worked outside the home, earned all the family's income. After the family breaks up, should the stay-at-home parent's child support be calculated on the likely earnings of a nurse's assistant? A. Yes **168** B. No **189**

4. While the family was intact, a parent quit a minimum wage job and chose to stay at home as a non income earning lay-about. The other parent, who was still working, did not agree but, was able to provide a reasonable level of support for the entire family. After the parents' divorce, should the stay-at-home parent be required to seek at least a minimum wage job? A. Yes **316** B. No **29**

5. After the family breaks up, should the child support guidelines always require child support to be based on the highest income a parent can earn? A. Yes **49** B. No **299**

6. The child support guidelines should never require a parent to provide more for the child than what the parent provided while the family was intact, *unless* a child's support is reduced below a minimum subsistence level after the family separates.

A. Agree **190**

B. Disagree **160**

[Questions #7 to #10 are to determine if, after the break-up of the family, there is any reason to allow a parent to take a lower paying job and thereafter, pay less child support.]

7. After the family breaks up, a parent quits a job with high pay to accept a job with lower pay. The parent provides no reason other than the parent liked the lower-paying job better than the higher-paying one. Should that parent's child support obligation be based on the income from the higher-paying job or the income from the lower-paying job?

A. Higher pay **225**

B. Lower pay **130**

8. After the family breaks up, the parent with whom the child resides quits a full time job and decides to work only part time. The parent's reason is that the parent wants to spend more time with the child. Should that parent's child support obligation be based on income earned at the full-time job or at the part-time job?

A. Full-time **192**

B. Part-time **152**

9. After the family breaks up, a parent quits a higher paying job to accept a lower paying job. The parent's lower paying job is in public service such as fire fighter, police officer or military service. Which income should that parent's child support obligation be based on?

A. Higher paying job **152**

B. Lower paying job **199**

10. After the family breaks up, a parent is recalled to military service during a national emergency. Should that parent's child support obligation continue to be based on the level of income earned before being recalled to military service or should it be based on the level of military pay the parent is earning?

A. Pay before military **71**

B. Military pay **275**

[Questions #11 and #12 concern whether or not a parent should have temporary relief from a child support obligation as a result of a temporary financial setback. For example, in an intact family when there is an involuntary, temporary reduction in income as the result of an injury, illness or layoff from work, the entire family will suffer the consequence of the lost pay. Should this happen in a divorced or separated family, the child support guidelines do not have a method for temporarily reducing the support amount. In most states, when the parent is injured and is getting workers' compensation at less than half of normal income, that parent is expected to pay the full amount of child support as if the injury had not occurred.]

11. Should the guidelines allow the paying parent some relief, such as lower child support, when the parent has a temporary loss of income?

A. Yes **271**

B. No **80**

12. If you answered "yes" to question #11, should the paying parent have to later make up the amount of child support not paid during the temporary loss of income?

A. Yes **136**

B. No **152**

[Question #13 is concerned with basing child support on a parent's true ability to pay.]

That means the parent must first meet his/her own needs to the extent that the parent can hold down a job. If a parent can't hold a job because the parent has no way to get to work, for example, then he/she cannot support his/her children. The term *self-support reserve* is used to describe an amount of income set aside to meet at least a part of a parent's personal needs. The self-support reserve, which is deducted from the parent's income before determining how much is available for child support, is designed to allow the parent to support him or herself at a very basic level in order that the parent can keep a job.

In an intact family, parents first pay those expenses necessary to allow themselves to hold a job, which reduces the amount of income available to spend on children. Many child support guidelines consider all of the parent's income to be available for child support even if the result is to reduce the parent's ability to meet his or her own basic needs and, therefore, reduce the parent's ability to keep a job.]

13. Should Montana's child support guidelines allow the parent to deduct a self-support reserve amount before calculating child support?

A. Yes **243**

B. No **113**

[Questions #14 through #17 attempt to find out how far a government-developed guideline should go in establishing a particular support level for a child. For example, in an intact family, government agencies will not impose a specific standard of living on the family. Governmental involvement in intact families occurs only to assure that the parents meet a child's basic subsistence needs. Some persons would argue that this same policy should apply to the use of child support guidelines when the family is no longer intact. Others will argue that the guideline should continue to establish a standard of living for the divided family appropriate to the highest income the parents can earn. Many parents will argue that the cost of supporting two separate households must be considered before any child support is calculated because the parents will have less income available for child support than when the family was together. Because of the problems associated with the split up of families, others argue that guidelines should establish more than a duty to meet basic subsistence but should not go so far as to impose a set standard of living on the parents. A fourth group argues that the guideline should simply require all non-custodial parents to pay a percentage of income for support of the child in the other parent's custody.]

14. Should a government sponsored child support guideline be limited to a calculation of each parent's obligation to provide for just their child's *basic subsistence* needs and nothing more? Under this scenario, any support obligation above basic needs is left to the agreement of the parents or the discretion of the court, if the matter is disputed.

A. Yes **138**

B. No **210**

15. Rather than limit the guidelines to meeting only basic subsistence needs, the guideline could establish an *adequate support standard* for the child but not go so far as to impose a particular standard of living for the child. As used here, an adequate support standard is more than basic subsistence but is unrelated to the standard of living of the former intact family. Instead, it is based on national surveys that demonstrate how much a typical family spends for

food, clothing, housing, transportation and similar expenses. Like the subsistence needs option, and especially for higher income families, the adequate support standard can be supplemented to achieve a particular standard of living by parental agreement or court order. Should the guidelines require sufficient payment from parents to provide an adequate support standard as determined by national expenditure surveys?

A. Yes **146**

B. No **199**

16. Another possibility is for the guidelines to first provide for the basic subsistence needs of the child and then allocate a percentage of the parents' remaining income to add to the basic needs. This method allows children to receive more child support from parents with higher income and a higher *standard of living*. Is this the best type of child support guideline for Montana?

A. Yes **207**

B. No **137**

17. Some guideline models used in other states do not attempt to set a basic support level nor do they attempt to set any particular standard of living. That is, those other guidelines require the non custodial parent to pay a *percentage of income* for the child's support without need to consider standard of living or the adequacy of the amount. This percentage amount is paid to the custodial parent for the care of the child without consideration of the custodial parent's income, which may be more or less than the income of the parent who is required to pay the percentage. Should Montana consider adopting that type of guideline?

A. Yes **90**

B. No **259**

THANK YOU FOR YOUR TIME AND YOUR OPINIONS,
FROM THE MONTANA CHILD SUPPORT ENFORCEMENT DIVISION.